

**Testimony of
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and
Vice Chairman
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**before the
House Agriculture Committee
Conservation, Credit, Rural Development
and Research Subcommittee**

**Review of the Methyl Bromide Critical Use
Exemption process under the Montreal Protocol**

March 10, 2005

Thank you Mr. Chairman and members of the Subcommittee. I am Jim Bair, vice president of the North American Millers' Association. NAMA is the trade association representing 48 companies that operate 170 wheat, oat and corn mills in 38 states. Their collective production capacity exceeds 160 million pounds of product each day, more than 95 percent of the total industry production.

I am also vice chairman of the Crop Protection Coalition.

Background

In Congressional hearings and briefings over the years, grain milling executives have discussed with you how methyl bromide is used to meet government regulations, and consumers' expectations, for clean and wholesome food.

They have testified that methyl bromide is easily the most technically and economically effective tool available to protect grain processing facilities and the food produced in them against insect pests.

The CUE process

Mr. Chairman, the parties to the Montreal Protocol process possess an

unhealthy passion for secrecy and undemocratic decision-making. That is irrational, unfair to US farmers and food processors and does not resemble good policy-making as we know it here in the U.S. It begins with the selection of the meeting locations where the Montreal Protocol negotiations will occur.

For instance, the annual meeting of the parties in 2003 was held in Nairobi, Kenya – according to the U.S. State Department one of the most dangerous cities in the world. A city so dangerous that the U.S. embassy evacuated its staff due to terrorist activities.

The 2004 meeting was scheduled for Thanksgiving week and the critical day of negotiations was set for Thanksgiving Day. Mr. Chairman and members of the subcommittee, I do not think the U.S. government should agree to meetings that force its citizens to choose between personal safety considerations and representing their business interests; nor should they have to pick between spending the most American of holidays with family or representing their business interests.

Even when the meetings are held in a foreign location a U.S. citizen can reasonably attend, the substantive negotiations are held behind closed doors. I personally have attempted to sit in on such sessions, not to participate but merely observe. When I and other U.S. food and agriculture representatives are noticed, we are kicked out of the room.

As if that were not enough, the U.S. is the largest financial supporters of the Montreal Protocol activities. To pick just the three recent years (2003-05), the so-called Multilateral Fund of the Protocol is funded at \$573 million. It is an outrage that U.S. taxpayers provided about 25 percent of that money to fund activities that threaten our economic well-being.

American agriculture is justifiably skeptical about fair treatment from the United Nations. The CUE approval process is agenda-driven and highly politicized. Ultimately, the fate of the U.S. CUE applications that are recommended to the parties of the Montreal Protocol are determined by a handful of individuals unaccountable to U.S. taxpayers, behind closed doors.

Some of the U.S.' critics in the Montreal Protocol negotiations are from countries that have no significant agriculture or food processing industries and therefore have never used much methyl bromide. So it's easy for them to say it ought to be banned.

Others are from countries that are agricultural competitors of the U.S., and they are unlikely to willingly surrender the competitive advantage that has been handed to them.

Arbitrary cuts in our CUE

In multiple hearings of this and other Congressional committees, we have described how, even in advance of the Montreal Protocol phase-out, the industry dramatically cut its usage of methyl bromide to one-fourth of the amount allowed by the EPA-approved label.

Further, the NAMA Critical Use Exemption (CUE) request has voluntarily reduced the requested amount each year.

Yet, we still meet with an antagonistic and, we believe, pervasive anti-United States attitude in the meetings and decisions of the Montreal Protocol.

The Protocol parties cut the NAMA allocation by 10 percent in 2005, and recommended another 10 percent for 2006. I cannot say what the basis for those cuts is, since I have never once been contacted by Protocol technical staff. Never once have I been asked to justify a request nor given the opportunity to defend one. Not one phone call, letter or email. Not one request to visit a U.S. grain mill to see first hand the factors that make methyl bromide necessary.

The arbitrary cuts by the U.S. EPA and the further cuts by the Parties to the Protocol penalize this industry for honest participation in the process. Some might wonder, if arbitrary cuts are going to be made, why not 'pad' our CUE request so that we end up getting an amount closer to what we truly need. We have not done that.

Changing rules in the middle of the game

It is our view that rule changes implemented since Congress ratified the treaty have drastically changed the intent and operation of the treaty.

Congress ratified the Montreal Protocol treaty with an understanding about the details of the agreement. Yet, year after year, Montreal Protocol committees have acted to change the rules, significantly altering the original intent of the treaty.

The focus of today's hearing – Critical Use Exemptions – is an excellent case in point. When the United States Congress ratified the Montreal

Protocol Treaty, it was with the understanding that there would be a stepped down phase-out. The treaty architects foresaw that at the end of that phase-out period there would be industries for which technically and economically feasible alternatives would not be available. As we now know, they were prescient.

Those authors included language in the treaty that stated that for those industries, a critical use exemption (CUE) would be available.

Despite what some Protocol parties and activists now claim, the treaty did not say the CUE's were to merely provide an additional glide path beyond the phase-out with the ultimate resolution being a complete elimination. That is not what the US negotiators agreed to nor what the U.S. Congress ratified.

If agriculture and food processing uses of methyl bromide are very harmful to the environment, then it should be banned globally on the same date, and the sooner the better. But banning methyl bromide in the U.S. while allowing our competitors to continue using it merely shifts jobs and economic activity to those competitors with no real gain to the environment. That is a false choice and the U.S. should not be pressured to make that choice.

Declare victory over ozone-depleting substances

Mr. Chairman and members of the subcommittee, food and agricultural uses of methyl bromide are of little environmental significance since, according to the EPA website:

- "Anthropogenic (man-made) methyl bromide has contributed a total of about 4% to ozone depletion over the past 20 years. Of this, about 2.5% can be attributed to agricultural fumigation activities."
- "The MBTOC (United Nations Methyl Bromide Technical Options Committee) recommendation to approve 35 percent of the US 1991 baseline for a critical use exemption represents about 0.4 percent of the ozone depleting potential from ALL ozone depleting substances in ALL countries when the Montreal Protocol was first negotiated in 1987. (emphasis added)
- "Further, the 35 percent figure represents only 1.5 percent of ozone depleting potential caused by all ozone depleting substances in 1989 in the US."

In short, the world is close to zero in its emissions of man-made

methyl bromide; so close that any additional incremental gains will be extraordinarily difficult to achieve. The difficulty in achieving them will be vastly offset by the benefits to agriculture and food production. It is time to declare victory and stop this irrational pursuit of an unwarranted total elimination.

That concludes my testimony, Mr. Chairman. I would be happy to answer any questions you or other committee members may have.